

REMARKS/COMMENTS

Applicant responds herein to the Office Action dated July 30, 2004. A Petition for Extension of Time (one month) and the fee therefor are enclosed.

In the present Office Action dated July 30, 2004, the Examiner finally rejects claims 1-22, essentially on grounds of anticipation by Frison (6,049,789). The rejection substantially corresponds to that in the prior Office Action. This response which is being submitted together with a Petition for Extension of Time, is specifically intended to constitute the applicant's reply to the comments in paragraph 17 of the Office Action, under the caption: "*Response to Arguments*".

The Examiner's response requests the applicant to discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them. The response further registers the Examiner's disagreement with the applicant's characterization of the prior art. In the response, the Office Action purports to describe the "inventive concept" described in the cited Frison reference, and mentions that the prior art includes one or more licensor PPU license management systems and one or more "licensees" communicatively coupled to each other as shown. The "licensees" are referred by the acronym LMS. Based on the Examiner's discussion, it is finally asserted that: "Therefore, the Frison's (sic) inventive concept is absolutely related to the disclosure."

Preliminarily, the applicant fails to appreciate what the relevance of the prior art is "to the disclosure". The present invention is not measured by its disclosure. Rather, it is measured by the language of the claims.

Claim 1 is directed to a software licensee manager constituting a first component of the overall system. A second component constitutes a job accounting and chargeback subsystem (JACS) that develops chargeback data that is applicable to "charged entities" that are separate of and unrelated to the software produce licensor and to the specified license fees. Claim 1 recites that the job accounting and chargeback system "allocates the specified license fees in accordance with predefined criteria based on the charged entity's utilization of software or computer facilities".

Lastly, claim 1 calls for a third element in the form of: "a job accounting and software use intercoupling facility". That last mentioned facility intercouple the software product use

information provided by the software license manager with the chargeback data, in a manner that provides software-product chargeback information.”

In the third paragraph (at page 2) of the Office Action, the language of claim 1 is reproduced with a generalized assertion that all of the elements are disclosed in the Frison document. Specific reference is made to fig. 1, 2, 7 and column 1 lines 48-61 and column 2, lines 50-4 line 46 (sic). Respectfully, the cited prior art in no way relates to the system of claim 1. It certainly does not teach the specific claim features that are recited in claim 1. In Frison, a so-called PPU license system is disclosed which comprises a conventional license management system (LMS) that measures software usage for vendors of the license software and further includes one or more licensee LMS systems. In other words, an LMS system is a license management system. Therefore, each licensee LMS in this reference includes one or more components that operate to grant pay-per-use licenses for software applications, including data collection on amount usage licenses granted. That additional subsystem is also described as being able to monitor the granting of the licenses and to periodically report the state and usage of licenses granted to the main licensor LMS.

Indeed, the foregoing is clear from the summary of the invention of this reference, mainly from column 1, lines 46-50 thereof and from column 2 beginning at line 59. Claim 1 of the cited reference concludes with the recitation: “including periodic reporting of locally observed-gathered state and usage license granted data to a remote licensor pay-per-use LMS”. In other words, the system of the cited reference grants licenses for the use of software products and collects information on such use at the local level and reports that information to the License Management System, i.e., to the vendor-referenced license manager.

But in fact, the cited Frison reference does not describe what is clearly referred to and defined in the present claims as constituting a job accounting and chargeback (JACS) subsystem. Nothing in this reference creates chargeback data which constitutes a well known system that allocates the cost of a particular product to different departments within a party or user that has purchased a particular software product. There is no reference or no mention in the cited prior art to “charged entities”, as that term is utilized in claim 1. There is no reference or mention in the document being cited of a “job accounting and software use intercoupling facility that interouples the software product use information provided by the software license manager with the chargeback

data (that is being developed by the JACS system), in a manner that provides software product chargeback information.” None of the specific features and elements of claim 1 are described in the cited reference.

Indeed, in the reference, in marked contrast to the invention defined in claim 1, there is no facility which can be identified as a JACS. The facilities that the Examiner is identifying actually grant licenses or access to licensed software products. The JACS of the present invention does not do that. In the present invention, the conventional operational mode of the license manager does not alter at the local level. Rather, the information from the license manager is simply communicated to the JACS which develops and utilizes the information of the license manager to create chargeback information for local use. Thus, the system of the present invention and that of the cited art are quite different and wholly distinguishable from one another.

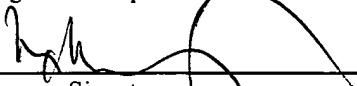
Since the foregoing remarks apply to each of the remaining dependent claims in the application, it is respectfully submitted that all of them distinguish from the prior art of record.

Reconsideration of the application is respectfully requested and passage to issuance is earnestly solicited.

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as First Class Mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on November 30, 2004

Max Moskowitz

Name of applicant, assignee or
Registered Representative

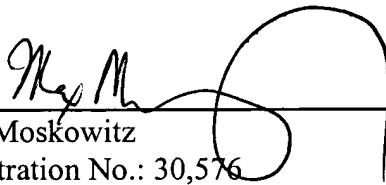


Signature

November 30, 2004

Date of Signature

Respectfully submitted,



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